

# August 2004

## Update: Criminal Procedure Monograph 4—Felony Arraignments in District Court (Revised Edition)

### Part A—Commentary on Felony Arraignments

#### 4.12 Waiver of Rights

##### B. Right to Counsel

Insert the following text in the paragraph near the middle of page 17 before the paragraph beginning **“Record of continuing waiver”**:

See also *People v Williams*, \_\_\_ Mich \_\_\_ (2004), and *People v Russell*, \_\_\_ Mich \_\_\_ (2004).\*

\*See Section 3.12, *Criminal Procedure Monograph 3: Misdemeanor Arraignments & Pleas (Revised Edition)* (MJl, 2004), for detailed discussion.

## 4.14 Pretrial Release Determination

### D. Record Requirements

Replace the quoted portion of MCL 765.6(1) in the middle of page 22 with the following:

“Except as otherwise provided by law, a person accused of a criminal offense is entitled to bail. The amount of bail shall not be excessive. The court in fixing the amount of the bail shall consider and make findings on the record as to each of the following:

“(a) The seriousness of the offense charged.

“(b) The protection of the public.

“(c) The previous criminal record and the dangerousness of the person accused.

“(d) The probability or improbability of the person accused appearing at the trial of the cause.”

Effective June 24, 2004, 2004 PA 167 eliminated language in MCL 765.6(1) requiring that bail “be uniform whether the bail bond is executed by the person for whom bail has been set or by a surety.” 2004 PA 167 added the following provision to MCL 765.6:

“(2) If the court fixes a bail amount under subsection (1) and allows for the posting of a 10% deposit bond, the person accused may post bail by a surety bond in an amount equal to 1/4 of the full bail amount fixed under subsection (1) and executed by a surety approved by the court.”